

**Amend Sections 70 and 74.5 of the Revenue and Taxation Code to modify the filing requirements for claiming a new construction exclusion for seismic safety improvements.**

**Source: Honorable Johan Klehs**

Revenue and Taxation Code Section 70(d) implements Proposition 23, approved by voters in 1984, and Section 74.5 implements Proposition 127, approved by voters in 1990. These propositions amended Section 2 of Article XIII A of the California Constitution to provide a new construction exclusion for certain seismic safety improvements.

Section 70(d) provides a 15-year new construction exclusion for improvements to unreinforced masonry buildings that must be undertaken to comply with local ordinances on seismic safety. Section 74.5 provides a new construction exclusion which has no 15-year cap for: (1) seismic retrofitting improvements and (2) improvements utilizing earthquake hazard mitigation technologies which applies to any type of building. (The provisions of Section 74.5 do not apply if the improvements fall into the category of Section 70(d).)

The constitution does not require that any claim be filed to receive the new construction exclusions, but the statutory provisions provide that claims must be filed and certain documents provided.

- To receive the new construction exclusion under Section 70(d) a property owner must file a "certificate of compliance", which is obtained from the local agency who required the improvements, by the "following April 15." If the certificate is not filed by the next April 15<sup>th</sup>, the exclusion is permanently lost.
- To receive the new construction exclusion under Section 74.5, a property owner must notify the assessor prior to, or within 30 days of, completion of the project that he or she intends to claim the exclusion for seismic retrofitting improvements or improvements utilizing earthquake hazard mitigation technologies. If the 30 day period to file is missed, then the new construction exclusion is permanently lost. Additionally, all documents needed to support the claim must be filed by the "following April 15."

With respect to improvements under Section 70(d), local agencies do not issue a certificate of compliance until the improvements are completed. If the improvements are completed within a few days of April 15, there may not be enough time to have it filed with the assessor by April 15 and the taxpayer loses 15 years of exemption. Similar language regarding a April 15<sup>th</sup> deadline is found in Section 74.5.

This proposal would strike the April 15<sup>th</sup> deadline and instead provide that the documents must be filed within six months of completion.

*Section 70 of the Revenue and Taxation Code is amended to read:*

(d) (1) Notwithstanding the provisions of subdivisions (a) and (b), where a structure must be improved to comply with local ordinances on seismic safety, "newly constructed" and "new construction" does not mean the portion of reconstruction or improvement to a structure, constructed of unreinforced masonry bearing wall construction, necessary to comply with the local ordinance. This exclusion shall remain in effect during the first 15 years following that reconstruction or improvement (unless the property is purchased or changes ownership during that period, in which case the provisions of Chapter 2 (commencing with Section 60) of this division shall apply).

(2) In the sixteenth year following the reconstruction or improvement referred to in paragraph (1), the assessor shall place on the roll the current full cash value of the portion of reconstruction or improvement to the structure that was excluded pursuant to this subdivision.

(3) The governing body that enacted the local ordinance shall issue a certificate of compliance upon the request of the owner who, pursuant to a notice or permit issued by the governing body that specified that the reconstruction or improvement is necessary to comply with a seismic safety ordinance, so reconstructs or improves his or her structure in accordance with the ordinance. The certificate of compliance shall be filed by the property owner with the county assessor not later than six months after the completion of the project. ~~on or before the following April 15. The provisions of this subdivision shall not apply to any structure for which a certificate is not filed. The failure to file a certificate of completion within the prescribed filing period shall be deemed a waiver of the exclusion for that year.~~

*Section 74.5 of Revenue and Taxation Code is amended to read:*

74.5. (a) For purposes of paragraph (4) of subdivision (c) of Section 2 of Article XIII A of the California Constitution, "newly constructed" and "new construction" does not include seismic retrofitting improvements and improvements utilizing earthquake hazard mitigation technologies, to an existing building or structure.

(b) For purposes of this section:

(1) "Seismic retrofitting improvements" means retrofitting or reconstruction of an existing building or structure, to abate falling hazards from structural or nonstructural components of any building or structure including, but not limited to, parapets, appendages, cornices, hanging objects, and building cladding that pose serious danger. "Seismic retrofitting improvements" also means either structural strengthening or providing the means necessary to reduce seismic force levels that would

otherwise be experienced by an existing building or structure during an earthquake, so as to significantly reduce hazards to life and safety while also providing for the substantially safe ingress and egress of building occupants during and immediately after an earthquake. "Seismic retrofitting improvements" does not include alterations, such as new plumbing, electrical, or other added finishing materials, made in addition to seismic-related work performed on an existing structure. "Seismic retrofitting" includes, but is not limited to, those items referenced in Appendix Chapters 5 and 6 of the Uniform Code for Building Conservation of the International Conference of Building Officials.

(2) "Improvements utilizing earthquake hazard mitigation technologies" means improvements, to existing buildings identified by a local government as being hazardous to life in the event of an earthquake, that utilize earthquake hazard mitigation technologies approved by the State Architect pursuant to Section 16102 of the Health and Safety Code.

(c) The property owner, primary contractor, civil engineer, or architect shall certify to the building department those portions of the project that are seismic retrofitting improvements or improvements utilizing earthquake hazard mitigation technologies. Upon completion of the project, the building department shall report the value of those portions of the project that are seismic retrofitting improvements and improvements utilizing earthquake hazard mitigation technologies to the county assessor.

(d) In order to receive the exclusion, the property owner shall notify the assessor prior to, or within 30 days of, completion of the project that he or she intends to claim the exclusion for seismic retrofitting improvements or improvements utilizing earthquake hazard mitigation technologies. The State Board of Equalization shall prescribe the manner and form for claiming the exclusion. All documents necessary to support the exclusion shall be filed by the property owner with the assessor not later than six months after the completion of the project ~~on or before the following April 15.~~

(e) The exclusion from "newly constructed" and "new construction" under this section is not applicable to seismic safety reconstruction and improvements that qualify for the exclusion provided in subdivision (d) of Section 70.

(f) This section shall only apply to projects completed on or after January 1, 1991.